

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

| | | | |
|----|---------------------------------|---|----------------------------|
| 1. | MICHELLE ERNST as Personal |) | |
| | Representative of the Estate of |) | |
| | DAVID MICHAEL ERNST, |) | |
| | deceased, |) | |
| | |) | |
| | Plaintiff, |) | |
| | |) | Case No. 14-CV-504-GKF-PJC |
| v. | |) | |
| | |) | |
| | |) | |
| 1. | CREEK COUNTY PUBLIC |) | |
| | FACILITIES AUTHORITY, |) | |
| 2. | ADVANCED CORRECTIONAL |) | |
| | HEALTHCARE, INC., |) | |
| | |) | |
| | Defendants. |) | |

DECLARATION OF KELLY BIRCH

I, Kelly Birch, being first duly sworn, depose and say:

1. I am familiar with the Plaintiff's claims in the above-styled case I am the Jail Administrator for the Creek County Criminal Justice Center; I am a records custodian for the Creek County Criminal Justice Center.

2. The following documents are referred to in Defendant's Motion for Summary Judgment, including:

- Ernst Inmate Detail
- Ernst Inmate Medical Form
- Suicide Observation Checklist for Ernst
- Ernst Placement/Review of Detainee in Observation
- Ernst Suicide Observation Checklist
- Ernst Medical Progress Note
- Ernst Medical History Form
- Ernst Suicide Observation Checklist
- Ernst Medical Progress Note dated August 26, 2013
- Ernst Medical Progress Note from September 2, 2013

- Ernst Medical History Form dated August 26, 2013
- Ernst Medical Request Form dated August 28, 2013
- Ernst Medical Request Form dated August 30, 2013
- Ernst Medical Request Form dated September 1, 2013
- Ernst Medical Request Form dated September 5, 2013
- Ernst Medical Request Form dated September 17, 2013
- Ernst Medical Request Form dated October 1, 2013
- Ernst Request to Staff Form (undated)
- Ernst Medical Request Form dated November 16, 2013
- Ernst Medical Progress Note from November 16, 2013
- Ernst Medical Request Form dated December 11, 2013
- Ernst Medical Request Form dated January 10, 2014
- Ernst Medical Request Form dated January 16, 2014
- Ernst Medical Request Form dated January 23, 2014
- Ernst Medical Request Form dated January 29, 2014
- Mental Health Services Clinical Contact Form
- Audio recorded phone call on June 11, 2014 from Angela Holmes to Creek County Jail
- Medical Progress Note, dated June 17, 2014
- Jail Incident Report

3. The documents identified in ¶ 2 above are records that were created at the Creek County Criminal Justice Center, they were made at or near the time of the event reflected in the record, they were created or recorded by a person with knowledge thereof, and/or they are records which are kept in the normal and regular course of business and operation of the Creek County Criminal Justice Center. The records are true and correct copies of originals maintained at the Creek County Criminal Justice Center.

4. On June 11, 2014, Angela Holmes, wife of inmate Jeremy Holmes, called the Jail. I have listened to the audio recording of her phone call. During this phone call, she initially spoke to Ron Hughes, who then transferred her call to Cody Smith. Holmes advised Hughes and Smith that Ernst was “threatening suicide.”

5. In response to this call, the policy and procedure at the CCCJC required the supervisor to have Ernst checked on to see how he was doing and whether he needed to be seen by

medical.

6. On June 12, 2014, Angela Holmes and inmate Jeremy Holmes again spoke by phone from the Jail. I have listened to the audio recording of her phone call. During this phone call, Jeremy told Angela that the night before, Jail staff checked on Ernst, took him out of his cell, and asked him a few questions.

7. From August 2013 to June 2014 (and on other dates), ACH (Advanced Correctional Healthcare) provided inmate medical and mental health care to inmates in the Jail, pursuant to a contract between ACH and the Authority. The staff ACH hired to work in the Jail's medical department consisted of nurses, a mental health professional, and a physician and/or physician's assistant. These staff were employed by ACH; they were not Jail employees. ACH was required to provide its staff training on medical and mental health issues.

8. During Ernst's incarceration, ACH was required to provide 108 hours of on-site nursing services/week, 10 hours/week of on-site services from a Qualified Mental Health Professional, a weekly visit by the ACH physician or physician assistant, and 24/7 on call service by the physician or physician's assistant.

9. From August 2013 to June 2014 (and on other dates), the Jail's policy and practice regarding inmate medical/mental health care was for ACH staff to make inmate medical/mental health care decisions. If an inmate had a medical/mental health complaint, the complaint was provided to ACH staff who decided how to address the complaint. Jail staff followed ACH staff's direction or advice as to inmate medical/mental health care.


10. Jail policy required that all Creek County Jail detention staff receive a minimum of 12 hours of annual training on the Jail's policies and procedures and the Oklahoma State Jail Standards.

Topics covered in this training include First Aid, CPR, security procedures, supervision of inmates, report writing and documentation, inmate rules and regulations, inmate grievance procedures, inmate disciplinary procedures, Facility emergency procedures, mental health issues and suicide recognition.

11. Jail policy required that all newly hired detention staff receive a minimum of 24 hours of training, within their first year of employment, on the Jail's policies and procedures and the Oklahoma State Jail Standards. Topics covered in this training are the same set forth above in ¶ 10.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 14, 2016


Kelly Birch